

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: August 18, 2022
Time: 10:00 a.m.

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In re:

Chapter 13
Case No.: 22-41304-206

RODRIGO I. DUTAN

Debtor(s)

NOTICE OF MOTION

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SIRS / MADAMS:

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Jil Mazer-Marino, United States Bankruptcy Judge, on the 18th day of AUGUST, 2022 at 10:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§521 & 1307(c), dismissing this case, by reason of the debtor(s)' failure to provide and/or file documents, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE NOTICE, that the hearing shall not be held in person but shall be held telephonically or by video. Those intending to appear at the hearing must register with eCourt Appearances no later than two (2) days prior to the hearing. The phone number or video link for the hearing will be emailed to those that register with eCourt Appearances in advance of the hearing. Instructions for registering with eCourt Appearances can be found at <https://www.nyeb.uscourts.gov/node/2126>. If you do not have internet access or are otherwise unable to register with eCourt Appearances, you may call or email Judge Mazer-Marino's courtroom deputy for instructions at (347)394-1844, jmm_hearings@nyeb.uscourts.gov.

PLEASE TAKE NOTICE, that the hearing on the Motion may be adjourned without notice other than announcement in open Court.

PLEASE TAKE NOTICE, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Islandia, New York
July 28, 2022

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, NY 11749
(631) 549-7900

To: *Office of the United States Trustee*
RODRIGO I. DUTAN, Debtor(s)
ALEXANDER KNIPENBERG, ESQ., Attorney for Debtor(s)
All Interested Parties and Creditors

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

tmm1634

Chapter 13
Case No.: 22-41304-206

RODRIGO I. DUTAN

Debtor(s)

APPLICATION

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TO THE HONORABLE JIL MAZER-MARINO, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on June 7, 2022, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of the date of this motion, the debtor(s) has failed to provide the Trustee with 2021 state and federal tax returns; amended plan to turnover 1/2 of bank balance and list proper loss mitigation formula; amended schedule C to remove tax refunds; amended schedules I/J to list proper rental income amount; proof post-petition mortgage payments being made; a copy of loss mitigation package submitted to the bank; request to enter loss mitigation; amended schedules E/F to list 2021 NYS tax liability or show proof paid; Debtor's email address; and resolve the objection to confirmation filed by JPMorgan Chase bank.
3. This is a material default and is prejudicial to the rights of the creditors of the debtor.

WHEREFORE, the Trustee requests an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York
July 28, 2022

/s/ Michael J. Macco
Michael J. Macco, Chapter 13 Trustee
2950 Express Drive South, Suite 109
Islandia, NY 11749
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

SANIYYAH S. GREENE, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On July 28, 2022, deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

Rodrigo I. Dutan
9109 98th Street
Woodhaven, NY 11421
Debtor(s)

and upon the following parties, by the e-mail address designated by said parties for that purpose;

Office of the United States Trustee
U.S. Federal Office Building
USTP.Region02.BR.TFRTDR@usdoj.gov

Alexander Knipenberg
aknipenberg@bka.org
Attorney for Debtor(s)

Axiom Bank & US Bank
c/o Robertson, Anschutz et. al
Attn: Raquel Felix
raqfelix@raslg.com
Creditor

Wells Fargo
c/o Woods, Oviatt et. al
Attn: Aleksandra Krasimirova Fugate
bkinbox@woodsdefaultservices.com
Creditor

/s/ **Saniyyah S. Greene**
SANIYYAH S. GREENE

Sworn to before me this
28th day of July, 2022

/s/ **Janine M. Zarrilli**
NOTARY PUBLIC
Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires October 14, 2025